

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 8318

Petition of New Cingular Wireless PCS, LLC,)
d/b/a AT&T Mobility, for a certificate of public)
good, pursuant to 30 V.S.A. § 248a, for the)
installation of telecommunications equipment in)
Duxbury, Vermont)

Order entered: 8/7/2014

I. INTRODUCTION

In this Order, the Vermont Public Service Board ("Board") approves the application filed by New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility (the "Petitioner"), pursuant to 30 V.S.A. § 248a, and the Board's Procedures Order ("Procedures Order"),¹ and grants the Petitioner a certificate of public good ("CPG") authorizing the installation of wireless telecommunications equipment at an existing facility in Duxbury, Vermont (the "Project").

II. BACKGROUND

This case involves a petition and prefiled testimony filed by the Petitioner on June 25, 2014, requesting that the Board issue a CPG, pursuant to 30 V.S.A. § 248a, authorizing the installation of telecommunications equipment in Duxbury, Vermont.

On July 16, 2014, the Vermont Department of Public Service filed a letter with the Board recommending that the Board issue an order approving the petition without additional hearings or investigation.

No other comments regarding the Project were filed with the Board.

1. *Amended order implementing standards and procedures for issuance of a certificate of public good for communications facilities pursuant to 30 V.S.A. § 248a*, Order issued August 10, 2011.

The Board has determined that the petition and prefiled testimony have effectively addressed the substantive criteria of 30 V.S.A. § 248a. Consequently, we find that the procedure authorized by § 248a is sufficient to satisfy the public interest, and no hearings are required.

III. FINDINGS

1. The Project involves the installation of wireless telecommunications equipment located at 2429 River Road in Duxbury, Vermont. The objective of the Project is to expand and improve wireless coverage in the surrounding area. Exh. 6B-1.

2. The Project involves the installation of twelve panel antennas, each measuring 92" by 14.8", at a centerline height of 80' on the existing 90' tower. A new equipment shelter and diesel generator will also be installed within the existing facility compound. The Project also includes ancillary operating equipment. Exh. 6B-1.

3. The Project will not involve new earth disturbance because the construction will occur within the existing facility compound. Exh. 6B-1.

4. The Project will not have an undue adverse impact on floodways, the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas. This finding is supported by findings 5-8, below.

5. The Project will be located at a facility that already hosts telecommunications equipment. As a result, the Project will be in context with its surroundings and the appearance of the facility will be virtually unchanged. Therefore, the Project will not have an adverse effect on aesthetics. Exh. 6B-1.

6. The Project will have no adverse impact on rare or irreplaceable natural areas, wildlife habitat, or endangered species within the vicinity of the Project. Exhs. 6B-1 and 6B-9.

7. The Project will have no adverse effect on historic sites. Exhs. 6B-1 and 6B-6.

8. The Project will have no adverse effect on floodways. Exh. 6B-1.

9. The Project is consistent with existing land use and zoning permits. Exh. 6B-1.

10. The Project is consistent with the goals of the Duxbury Town Plan and the Central Vermont Regional Plan. Exh. 6B-1.

IV. DISCUSSION AND CONCLUSION

The procedures governing Board approval of communications facilities are set forth in 30 V.S.A. § 248a. Section 248a(l) provides that the Board:

may issue rules or orders implementing and interpreting this section. In developing such rules or orders, the board shall seek to simplify the application and review process as appropriate

In order to implement the statute the Board adopted the Procedures Order. In accordance with § 248a(b)(3), the Procedures Order, at Section II, defines a project of "limited size and scope" as:

a new telecommunications facility, including ancillary improvements, that does not exceed 140 feet in height; or an addition, modification, replacement, or removal of equipment at an existing telecommunications facility or support structure, and ancillary improvements, that would result in a total facility height of less than 200 feet and does not increase the width of the existing support structure by more than 20 feet. In order to qualify as a project of limited size and scope, construction of the project shall not result in earth disturbance of more than 10,000 square feet of earth, excluding temporary earth disturbance associated with construction activities.

As required by § 248a (c)(1), and set forth in Section IV(H) of the Procedures Order, in reviewing projects of limited size and scope the Board conditionally waives:

all criteria under 30 V.S.A. § 248a (c)(1), with the exception of 10 V.S.A. §§ 6086(a)(1)(D) (floodways) and 6086(a)(8) (aesthetics, historic sites, rare and irreplaceable natural areas, endangered species, necessary wildlife).

The Project will be approximately 90' in height and will not result in any new earth disturbance. Therefore, the Project qualifies as a project of limited size and scope.

Based upon all of the above evidence, we conclude that the petition does not raise a significant issue with respect to the relevant substantive criteria of 30 V.S.A. § 248a, the public interest is satisfied by the procedures authorized in 30 V.S.A. § 248a, and the proposed Project will promote the general good of the State.

V. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that the installation and operation of communications facilities at the location

specified in the above findings, by New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility, in accordance with the evidence and plans submitted in this proceeding, will promote the general good of the State of Vermont in accordance with 30 V.S.A. § 248a(a), and a certificate of public good to that effect shall be issued in this matter.

Dated at Montpelier, Vermont, this 7th day of August, 2014.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/John D. Burke</u>)	BOARD
)	
)	OF VERMONT
<u>s/Margaret Cheney</u>)	

OFFICE OF THE CLERK

FILED: August 7, 2014

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and Order.